

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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:
FERNANDO LOPEZ, ADOLFO LOPEZ, :
VENANCIO GALINDO and GIL SANTIAGO, :

Plaintiffs, :

- against - :

FLOR DE MAYO, INC., PHILLIP CHU, :
DENNIS CHU and JOSE CHU, :

Defendants. :
----- x

No. 07 Civ. 6526 (AJP)

**Declaration of Matteo J. Rosselli in Support of Plaintiffs' Motion
Pursuant to Rules 15(a) and 21 of the Federal Rules of Civil
Procedure for Leave to File an Amended Complaint**

MATTEO J. ROSSELLI declares under penalty of perjury:

1. I am a member of the bar of the State of New York and of the bar of this Court. I am an associate at Davis Polk & Wardwell, one of the counsel for Plaintiffs in this action.

2. I submit this Declaration in support of Plaintiffs' motion pursuant to Rules 15(a) and 21 of the Federal Rules of Civil Procedure for leave to file an amended complaint.

3. Attached hereto as Exhibit A is a true and correct copy of Plaintiffs' Complaint in this action, filed July 20, 2007.

4. Attached hereto as Exhibit B is a true and correct copy of Plaintiffs' proposed Amended Complaint.

5. Attached hereto as Exhibit C is a black-line comparison of Plaintiffs' Complaint and Plaintiffs' proposed Amended Complaint.

I. **Amending the Caption to Name Jose Tso Rather Than Jose Chu**

6. Defendants' discovery responses indicate that the defendant sued here as Jose Chu is, in fact, named Jose Tso.

7. Defense counsel has indicated that Defendants do not object to the caption being amended to name Jose Tso rather than Jose Chu.

II. Amending the Complaint to Add Cho Familia Dynastia, Inc.

8. Plaintiff Adolfo Lopez alleges that he worked for approximately five weeks as a busboy at the Flor de Mayo restaurant located at 2651 Broadway in New York City.

9. Plaintiff Adolfo Lopez alleges that, while working at the Flor de Mayo restaurant located at 2651 Broadway, he was not paid the state or federal minimum wage, the state or federal overtime rate, or "spread of hours" compensation.

10. Defendants claim that the Flor de Mayo restaurant at 2651 Broadway is owned and operated by Cho Familia Dynastia, Inc.

11. Attached hereto as Exhibit D is a portion of defendant Dennis Chu's deposition, dated January 16, 2008, in which Richard H. Byrnes, counsel for Defendants, instructs defendant Dennis Chu not to answer questions regarding Cho Familia Dynastia, Inc.

12. Discovery in this matter is set to close on March 14, 2008.

Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury that the foregoing is true and correct.

Dated: New York, New York
February 1, 2008

By: /s/ Matteo J. Rosselli
Matteo J. Rosselli (Bar No. MR-6422)